

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ELIJAH L. PALMER, *et al.*,

4 Plaintiff,

5 v.

6 LAS VEGAS METROPOLITAN POLICE
7 DEPARTMENT, *et al.*,

8 Defendants.

Case No. 2:20-cv-00250-RFB-VCF

ORDER

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10 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
11 by a prisoner incarcerated at the Clark County Detention Center. On February 13, 2020,
12 this Court issued an order denying the Plaintiff Palmer's application to proceed *in forma*
13 *pauperis*, without prejudice, because the application was incomplete. (ECF No. 4 at 10).
14 The Court ordered Plaintiff Palmer to file an amended complaint and a fully complete
15 application to proceed *in forma pauperis* or pay the full filing fee of \$400 within thirty days
16 from the date of that order. (*Id.* at 10). The thirty-day period has now expired, and Plaintiff
17 Palmer has not filed an amended complaint or another application to proceed *in forma*
18 *pauperis*, paid the full filing fee, or otherwise responded to the Court's order.

19 District courts have the inherent power to control their dockets and "[i]n the
20 exercise of that power, they may impose sanctions including, where appropriate . . .
21 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
22 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
23 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
24 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
25 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
26 1992) (affirming dismissal for failure to comply with an order requiring amendment of
27 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
28 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
2 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
3 local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the court must consider several factors:
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
9 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
10 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the Court finds that the first two factors, the public's interest in expeditiously
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
19 the court's order will result in dismissal satisfies the "consideration of alternatives"
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
21 F.2d at 1424.

22 The Court's order requiring Plaintiff Palmer to file an amended complaint and
23 another application to proceed *in forma pauperis* or pay the full filing fee within thirty days
24 expressly stated: "It is further ordered that if any plaintiff fails to file an amended complaint
25 within 30 days of this order, that plaintiff's action will be dismissed without prejudice to
26 that plaintiff later filing a new action with a new complaint." (ECF No. 4 at 10). The Court's
27 order also expressly stated: "It is further ordered that, if any plaintiff fails to either pay the
28 complete filing fee or file a complete application to proceed *in forma pauperis*, including

1 the required financial attachments, within 30 days of the date of this order, the action by
2 that plaintiff will be dismissed without prejudice to that plaintiff later filing an action in a
3 new case with a new complaint and either paying the full filing fee or filing a complete
4 application to proceed in forma pauperis with the required financial documents.” (*Id.* at
5 10). Thus, Plaintiff Palmer had adequate warning that dismissal would result from his
6 noncompliance with the Court’s order to file an amended complaint and another
7 application to proceed *in forma pauperis* or pay the full filing fee within thirty days.

8 IT IS THEREFORE ORDERD that this action is dismissed without prejudice based
9 on Plaintiff Palmer’s failure to file an amended complaint or another application to proceed
10 *in forma pauperis* or pay the full filing fee in compliance with this Court’s order dated
11 February 13, 2020.

12 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter
13 judgment accordingly.

14 DATED: March 24, 2020



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16 RICHARD F. BOULWARE, II
17 UNITED STATES DISTRICT JUDGE
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